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IN THE

Supreme Court of the United States

OCTOBER TERM, A. D. 1933.

No. 783

LOCAL LOAN COMPANY, A CORPORATION,
Petitioner and Appellant Below,

vs.

WILLIAM HUNT,
Respondent and Appellee Below.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT, AND BRIEF IN SUPPORT THEREOF.

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vs.

WILLIAM HUNT,
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PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT, AND BRIEF IN SUPPORT THEREOF.

To the Honorable Chief Justice and the Associate Justices of the Supreme Court of the United States:

Your petitioner respectfully prays for a writ of certiorari to review the judgment of the Circuit Court of Appeals for the Seventh Circuit, affirming an order of the District Court for the Northern District of Illinois, Eastern Division. The District Court, sitting in bankruptcy, upon the petition of William Hunt, a discharged bankrupt, summarily and permanently stayed proceedings begun by petitioner in a State Court, after Hunt's discharge, to enforce as against wages earned after his adjudication, the lien of a wage assignment given by him prior to his adjudication.

Questions Presented.

1. Does a Federal District Court sitting in bankruptcy have the power to adjudicate the effect of its own discharge upon a particular obligation of a bankrupt?

2. Does a Federal Court sitting in bankruptcy have power, after a bankrupt has been discharged, to enjoin proceedings in a state court, brought after the discharge, to enforce a claim against the bankrupt which the bankrupt alleges was barred by his discharge?

3. Is a Federal Court sitting in bankruptcy justified in disregarding the decisions of the court of last resort of the local jurisdiction, which hold that an assignment of wages to be earned under an employment existing at the time of the filing of a petition in bankruptcy creates a lien which survives discharge and enables the assignee to collect the wages earned after adjudication?

Petitioner believes that each of these questions should be answered in the negative. The Circuit Court of Appeals answered each of them in the affirmative, basing its decision, petitioner urges, upon a misconception of the fundamental rules which separate the powers and functions of bankruptcy courts from those of courts of general jurisdiction.

The importance and necessity of maintaining harmony between the federal and state judicial systems by clearly defining the jurisdiction of each and correlating their functions in matters of concurrent jurisdiction is obvious. Inasmuch as this case presents a new field of jurisdictional conflict between the two systems, capable of causing much confusion and embarrassment, it is believed deserving of review by this court.

STATUTES INVOLVED.

Section 265 of the Judicial Code (March 3, 1911, Ch. 231, Sec. 265, 36 Stat. 1162; 28 U. S. C. A. 379):

> "The writ of injunction shall not be granted by any Court of the United States to stay proceedings in any Court of a State except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy."

Section 2 (15) of the Bankruptcy Act (July 1, 1898, Ch. 541, Sec. 2 (15), 30 Stat. 545; 11 U. S. C. A. 11):

> "The Courts of bankruptcy * * * are invested * * * with such jurisdiction at law or in equity as will enable them to exercise original jurisdiction in bankruptcy proceedings to * * * make such order, issue such process and enter such judgments in addition to those specifically provided for as may be necessary for the enforcement of the provisions of this title."

Section 11 (a) of the Bankruptcy Act (July 1, 1898, Ch. 541, Sec. 11 (a), 30 Stat. 549; 11 U. S. C. A. 29):

> "A suit which is founded upon a claim from which a discharge would be a release and which is pending against a person at the time of a petition filed against him shall be stayed until after an adjudication or the dismissal of the petition; if such person is adjudged a bankruptcy, such action may be further stayed until twelve months after the date of such adjudication or if within that time such person applies for a discharge, then until the question of such discharge is determined."

Section 67 (d) of the Bankruptcy Act (July 1, 1898, Ch. 541, Sec. 67 (d), 30 Stat. 564; 11 U. S. C. A. 107):

> "Liens given or accepted in good faith and not in contemplation of or in fraud upon the provisions of this title and for a present consideration * * * shall to the extent of such consideration only not be effected by anything herein."

STATEMENT.

On September 17, 1930, William Hunt, the respondent herein, was in the employ of the Grand Trunk Western Railroad Company. On that day he borrowed $300 from the petitioner herein, the Local Loan Company, and executed an assignment of his wages earned and to be earned by him with said employer, as security for said loan. (R. 9.)

On March 3, 1931, Hunt filed a voluntary petition in bankruptcy in the United States District Court for the Northern District of Illinois, Eastern Division, in which he duly scheduled the debt of $300, and on March 6, 1931, Hunt was adjudicated a bankrupt. On March 10, 1932, he procured his discharge. (R. 9.)

On October 17, 1932, petitioner served notice of the aforesaid wage assignment upon Hunt's employer and on October 18, 1932, filed suit against said employer in the Municipal Court of Chicago, Illinois, on said assignment (R. 3, 6). In this suit, the petitioner sought to recover for wages earned after the discharge.

On November 14, 1932, Hunt petitioned said District Court for an order permanently restraining petitioner from further prosecuting its said suit or its said claim under the wage assignment (R. 2). Petitioner answered setting up that the assignment was a valid lien not extinguished by a discharge in bankruptcy and contesting the jurisdiction of the District Court to issue the injunction (R. 5). A permanent restraining order was nevertheless issued (R. 8-10). Petitioner appealed to the Circuit Court of Appeals for the Seventh Circuit where the order of the District Court was sustained by judgment entered November 17, 1933 (R. 35).

Reasons for Allowance of Writ.

1. The Circuit Court of Appeals of this 7th Circuit has rendered a decision in this case in conflict with decisions of other Circuit Courts of Appeals on the following important question of federal law which has not been, but should be, settled by this court:

> Does a Federal District Court sitting in bankruptcy have the power to adjudicate the effect of its own discharge upon a particular obligation of a bankrupt?

The Circuit Court of Appeals in this case and in one other,[1] and the Ninth Circuit Court of Appeals[2] have held that a bankruptcy court has such power. The First, Second and Third Circuit Courts of Appeals[3] and all of the reported District Court decisions in which this question has been actually raised[4] have held squarely to the contrary.

2. The Circuit Court of Appeals has decided the following important question of federal law which has not been, but should be settled by this court:

> Does a Federal Court sitting in bankruptcy have power, after a bankrupt has been dis-

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[1] *In re Skorcz* (7th C. C. A. 1933), 67 Fed. (2d) 187.

[2] *Sims* v. *Jamison* (9th C. C. A. 1933), 67 Fed. (2d) 409.

[3] *In re Marshall Paper Co.* (1st C. C. A. 1900), 102 Fed. 872; *In re Havens* (2nd C. C. A. 1921), 272 Fed. 975; *Hellman* v. *Goldstone* (3rd C. C. A. 1921), 161 Fed. 913.

[4] *In re DeLauro* (D. C. Conn. 1932), 1 Fed. Supp. 678; *In re Madden* (D. C. N. J. 1919) 257 Fed. 581; *In re Weisberg* (D. C. Mich. 1918), 253 Fed. 833; *In re Lockwood* (D. C. N. Y. 1917), 240 Fed. 161; *In re Levitan* (D. C. N. J. 1915), 224 Fed. 241; *In re McCarty* (D. C. Ill. 1901), 111 Fed. 151; *In re Rosenthal* (D. C. N. Y. 1901), 108 Fed. 368; *In re Mussey* (D. C. Mass. 1900), 99 Fed. 71; *In re Black* (D. C. Cal. 1899), 97 Fed. 493; *In re Thomas* (D. C. Iowa, 1899), 92 Fed. 912.

charged, to enjoin proceedings in state courts, brought after the discharge, to enforce a claim against the bankrupt which the bankrupt alleges was barred by his discharge?

The only exception to the absolute prohibition contained in Section 265 of the Judicial Code against the issuance of injunctions by United States courts to stay proceedings in state courts is in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy. There are no provisions of the Bankruptcy Act authorizing or permitting an invasion of the state court's jurisdiction in this case.[5]

3. The Circuit Court of Appeals has decided the following important federal question in a way probably in conflict with applicable decisions of this court, and with the decisions of two other Circuit Courts of Appeals, and with the weight of authority:

Is a Federal Court sitting in bankruptcy justified in disregarding the decisions of the court of last resort of the local jurisdiction, which hold that an assignment of wages to be earned under an employment existing at the time of the filing of a petition in bankruptcy creates a lien which survives discharge and enables the assignee to collect the wages earned after adjudication?

The Circuit Court of Appeals and the District Court held in this case and in one other[6] that a federal court, sitting in bankruptcy, can disregard such state decisions. No other Federal Court has passed upon the exact question, but this decision of the

[5] Pertinent Sections: Secs. 2(15) and 11(a) (July 1, 1898, Ch. 541, Sec. 11(a), 2(15); 11 U. S. C. A. 11, 29), discussed with applicable cases in brief, p. 12-15.

[6] *In re Skorcz* (7th C. C. A. 1933), 67 Fed. (2d) 187.

Circuit Court of Appeals of the Seventh Circuit is, we insist, in conflict with the decisions of this court which hold that Federal Courts in bankruptcy will follow the decisions of the court of last resort of the state with respect to the nature and extent of liens created by the law of that state.[7] The decision of the Court of Appeals herein also conflicts with decisions of the Circuit Courts of Appeals of the First and Ninth Circuits holding that the question as to whether a lien attaches to after-acquired property is to be determined by the local state law as expressed in the decisions of the local courts of last resort.[8]

It is respectfully submitted that the writ of certiorari herein prayed should issue for the reasons urged.

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[7] *Dooley* v. *Pease*, 186 U. S. 126 (1901); *Thompson* v. *Fairbanks*, 196 U. S. 516 (1905); *Humphrey* v. *Tatum*, 198 U. S. 91 (1905); *Hiscock* v. *Varick Bank of New York*, 206 U. S. 28 (1906); *Benedict* v. *Ratner*, 268 U. S. 353 (1925).

[8] *In re Robert Jenkins Corporation* (1st C. C. A. 1927) 17 Fed. (2d) 555; *In re Simpson* (9th C. C. A. 1929), 35 Fed. (2nd) 840; *Sims* v. *Jamison* (9th C. C. A. 1933), 67 Fed. (2d) 409.

BRIEF IN SUPPORT OF PETITION.

Opinions Below.

The opinion of the Circuit Court of Appeals appears on page 34 of the record. It has not been reported. However, it is mainly a reaffirmance of the same court's opinion in *In re Skorcz,* reported in 67 Fed. (2d) 187.

Jurisdiction.

The judgment of the Circuit Court of Appeals was entered November 17, 1933 (R. 35). Jurisdiction is invoked under Section 240a of the Judicial Code as amended by Section 1 of the Act of February 13, 1925 (c. 229, 43 Stat. 936, 938).

Questions Presented.

The questions presented are stated in the petition (*ante,* p. 2).

Statutes Involved.

Pertinent portions of the statutes involved are quoted in the petition (*ante,* pp. 3, 4).

Statement.

The statement of the case is in the petition (*ante,* p. 5).

ARGUMENT.

POINT I.

A FEDERAL COURT SITTING IN BANKRUPTCY HAS NO POWER TO ADJUDICATE THE EFFECT OF ITS OWN DISCHARGE.

Three Circuit Courts of Appeals have decided that it is not a function of the bankruptcy courts to pass upon the effect of a discharge in bankruptcy upon a particular obligation of bankrupt, that function being reserved to the court in which the bankrupt may plead his discharge in bar when sued upon the obligation.

In re Marshall Paper Co. (1st C. C. A. 1900) 102 Fed. 872.

Hellman v. *Goldstone* (3rd C. C. A. 1908), 161 Fed. 913.

In re Havens (2nd C. C. A. 1921), 272 Fed. 975.

Contra is *Sims* v. *Jamison* (9th C. C. A. 1933), 67 Fed. (2d) 409, which holds that both courts of general jurisdiction and bankruptcy courts have jurisdiction in the matter. All of the District Court cases found in which the point has been squarely raised support the rule of the Circuit Courts of Appeals in the First, Second and Third Circuits.[1]

[1] *In re DeLauro* (D. C. Conn. 1932), 1 Fed. Supp. 678; *In re Madden* (D. C. N. J. 1919), 257 Fed. 581; *In re Weisberg* (D. C. Mich. 1918) 253 Fed. 833; *In re Lockwood* (D. C. N. Y. 1917), 240 Fed. 161; *In re Levitan* (D. C. N. J. 1915), 224 Fed. 241; *In re McCarty* (D. C. Ill. 1901) 111 Fed. 151; *In re Rosenthal* (D. C. N. Y. 1901), 108 Fed. 368; *In re Mussey* (D. C. Mass. 1900), 99 Fed. 71; *In re Black* (D. C. Cal. 1899), 97 Fed. 493; *In re Thomas* (D. C. Iowa, 1899), 92 Fed. 912.

The District Court's permanent injunction ousted the state court's jurisdiction to adjudicate the effect of the discharge in this case, and the Circuit Court of Appeals' affirmance thereof extends the conflict between the cases noted. The question has never been passed upon by this court, and in view of its importance and of the existing conflict between the Circuit Courts of Appeals, it is submitted that it should now be settled by this court.

Point II.

A FEDERAL COURT SITTING IN BANKRUPTCY HAS NO POWER, AFTER DISCHARGE OF A BANKRUPT TO OUST A STATE COURT BY INJUNCTION OF JURISDICTION TO DETERMINE THE EFFECT OF SUCH DISCHARGE.

Section 265 *of the Judicial Code*[1] provides:

> "The writ of injunction shall not be granted by any court of the United States to stay proceedings in any court of a state, except in cases where such injunction may be authorized by any law relating to proceedings in bankruptcy."

This section forbids interference by one court when the jurisdiction of another court of concurrent authority has attached, and is based upon the necessity of preventing unseemly conflict between state and federal courts. It is strictly enforced.

Peck v. *Jeness,* 48 U. S. (7 How.) 612 (1849).

Metcalf v. *Barker,* 187 U. S. 165 (1902).

Hull v. *Burr,* 234 U. S. 712 (1914).

Phelps v. *Mutual Reserve Fund Life Assn.,* (6th C. C. A. 1901) 112 Fed. 453 (aff'd. 190 U. S. 147).

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[1] Mar. 3, 1911, Ch. 231, Sec. 265, 36 Stat. 1162; 28 U. S. C. A. 379.

The *Phelps* case holds that the only permissible relaxation of the strict rule of Sec. 265 is that a federal court may enjoin a state court when necessary to protect its own prior possession of the controversy or enforce its own judgment.

In this case the state court, not the bankruptcy court, had prior possession of the controversy over Hunt's wages earned subsequent to his adjudication. Moreover, we have shown that the bankruptcy courts grant discharges, but do not adjudicate their effect, so that the injunction was not warranted on the ground of enforcing a prior judgment of the District Court.

The sole remaining question is: Was the injunction authorized by any provision of the Bankruptcy Act?

The "laws relating to bankruptcy" mentioned in Section 265 are now Sections 2 (15) and 11 (a) of the Bankruptcy Act. *Hull* v. *Burr,* 234 U. S. 712 (1914).

Section 2 (15) of the Bankruptcy Act[1] provides:

> "The courts of bankruptcy * * * are invested * * * with such jurisdiction at law or in equity as will enable them to exercise original jurisdiction in bankruptcy proceedings to * * * make such orders, issue such process and enter such judgments in addition to those specifically provided for as may be necessary for the enforcement of the provisions of this title."

By the above section courts of bankruptcy are not invested with general equitable jurisdiction, but only

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[1] July 1, 1898, Ch. 541, Sec. 2(15), 30 Stat. 545; 11 U. S. C. A. 11.

such equitable powers as are necessary to carry out their statutory jurisdiction in bankruptcy matters.

Bardes v. *Hawarden Bank,* 178 U. S. 524 (1900).

In re Judith Gap Commercial Co. (9th C. C. A., 1925), 5 Fed. (2d) 307.

This injunction was outside the bankruptcy court's statutory jurisdiction. Its main object, adjudicating the effect of a discharge, was not a bankruptcy function (Argument, Point I). There are other reasons why the injunction did not perform a bankruptcy function.

Bankruptcy courts have no jurisdiction to adjudicate the rights of one who claims, adversely to the bankrupt, property not in the court's possession, even though it is part of the bankrupt's estate. Such an adverse claim must be litigated in a plenary proceeding in a court of general jurisdiction.

Bardes v. *Hawarden Bank,* 178 U. S. 524 (1900).

Louisville Trust Co. v. *Cominger,* 184 U. S. 18 (1902).

Harris v. *First National Bank,* 216 U. S. 382 (1910).

Galbraith v. *Valley,* 256 U. S. 46 (1921).

Harrison v. *Chamberlin,* 271 U. S. 191 (1926).

An assignee claiming wages earned subsequent to adjudication is an adverse claimant within the foregoing rule.

Progressive Building & Loan Company, Inc. v. *Hall* (4th C. C. A. 1914), 220 Fed. 45.

Copeland v. *Martin* (5th C. C. A. 1910), 182 Fed. 805.

Moreover, the wages in this case were earned after adjudication and therefore not even part of Hunt's estate in bankruptcy. Bankruptcy courts have no power to entertain litigation between the bankrupt and a third party with respect to property not a part of the bankruptcy estate. That is true where the property has been set aside to the bankrupt as an exemption,

Duffy v. *Tegeler* (8th C. C. A. 1927), 19 Fed. (2d) 305.

B. F. Roden Grocery Co. v. *Bacon* (5th C. C. A. 1904), 133 Fed. 515.

and where the property is held by the bankrupt wrongfully, without title,

In re Amy (2nd C. C. A. 1920), 263 Fed. 8.

Nor can the order of the District Court be sustained under Section 11 (a) of the Bankruptcy Act[1] which provides:

> "A suit which is founded upon a claim from which a discharge would be a release, and which is pending against a person at the time of the filing of a petition against him, shall be stayed until after adjudication or the dismissal of the petition; if such person is adjudged a bankrupt, such action may be further stayed until twelve months after the date of such adjudication, or, if within that time such person applies for a discharge, then until the question of such discharge is determined."

A stay under this section cannot delay the prosecution of a suit longer than the determination of the application for a discharge.

In re Byrne (2nd C. C. A., 1924), 296 Fed. 98.

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[1] July 1, 1898, Ch. 541, Sec. 11(a), 30 Stat. 549; 11 U. S. C. A. 29.

In re Federal Biscuit Co. (2nd C. C. A. 1914), 214 Fed. 221.

and several District Court decisions.[1]

The temporary stay orders authorized by Section 11 (a) merely suspend the proceedings in the state court until the question of discharge has been adjudicated. They do not oust the state court's jurisdiction. Section 11 (a) indicates a legislative intent that courts of bankruptcy are not to charge themselves with perpetual custody of bankrupts, but that, having granted discharges to them, they are to remit them to the protection of courts of general jurisdiction.

This conclusion is strengthened by the construction which the courts have given to Section 9 of the Bankruptcy Act,[2] which invests courts of bankruptcy with power to protect bankrupts from arrest under civil process. It is held that the protection extended to bankrupts under that section expires with the granting or refusal of a discharge.

In re DeLauro (D. C. Conn. 1932), 1 Fed. Supp. 678.

In re Lockwood (D. C. N. Y. 1917), 240 Fed. 161.

The conclusion is that since no power in the District Court to issue the injunction in this case is expressed in or can be implied from any provisions of the Bankruptcy Act, the injunction must be one

[1] *In re Madden* (D. C. N. J. 1919), 257 Fed. 581; *In re Weisberg* (D. C. Mich. 1918), 253 Fed. 833; *In re Levitan* (D. C. N. J. 1915), 224 Fed. 241; *In re Lockwood* (D. C. N. Y. 1917), 240 Fed. 161; *In re Flanders* (D. C. Vt. 1903), 121 Fed. 936; *In re Rosenthal* (D. C. N. Y. 1901), 108 Fed. 368.

[2] July 1, 1898, Ch. 541, Sec. 9, 30 Stat. 549, 11 U. S. C. A. 27.

which comes directly within the prohibitive language of Section 265 of the Judicial Code.

This question has never been passed upon by this court, and, we submit, is of such importance that it should be.

Point III.

A FEDERAL COURT SITTING IN BANKRUPTCY MAY NOT DISREGARD STATE COURT DECISIONS ADJUDICATING LIEN RIGHTS.

Section 67 (d) of the Bankruptcy Act[1] provides:

> "Liens given or accepted in good faith and not in contemplation of or in fraud upon the provisions of this title, and for a present consideration, which have been recorded according to law, if record thereof was necessary in order to impart notice, shall, to the extent of such present consideration only, not be affected by anything herein."

The liens referred to in the above section are such as are created by the laws of the several states. The federal courts follow the decisions of the highest courts of the several states in determining the force and effect of liens created under state law.

Dooley v. *Pease*, 180 U. S. 120 (1901).

Thompson v. *Fairbanks*, 196 U. S. 516 (1905).

Humphrey v. *Tatum*, 198 U. S. 91 (1905).

Hiscock v. *Varick Bank of New York.*, 206 U. S. 28 (1906).

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[1] July 1, 1898, Ch. 541, Sec. 67(d), 30 Stat. 564; 11 U. S. C. A. 107.

Benedict v. *Ratner,* 268 U. S. 353 (1925).

In re Robert Jenkins Corporation (1st C. C. A. 1927) 17 Fed. (2d) 555.

In re Simpson (9th C. C. A. 1929), 35 Fed. (2d) 840.

Sims v. *Jamison* (9th C. C. A. 1933), 67 Fed. (2d) 409.[2]

The Supreme Court of Illinois holds that in Illinois an assignment of future wages creates such a lien as gives the assignee a vested property right from the date of the assignment, and that such a lien is within the terms of Section 67 (d) of the Bankruptcy Act, and is therefore not invalidated by the assignor's discharge in bankruptcy.

Mallin v. *Wenham,* 209 Ill. 252, 70 N. E. 564.

Monarch Discount Co. v. *C. & O. Railway Co.,* 285 Ill. 233, 120 N. E. 743.

Such being the law in Illinois, the District Court should have applied it in this case, and held that the bankrupt's discharge was not a bar to petitioner's

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[2] All of the above cases, except *Dooley* v. *Pease,* are bankruptcy cases, and all of those except the *Hiscock* case involve the validity of a lien given upon property to be acquired in the future. Judge Sparks, in *In re Skorcz,* (7th C. C. A. 1933), 67 Fed. (2d) 187), recognized that his decision was contrary to the Illinois rule, but relied upon *Swift* v. *Tyson,* 41 U. S. (16 Peters) 1, 17 and *Guffey* v. *Smith,* 237 U. S. 101, 114, where is was held that in common law actions the Federal courts are not bound by local decisions on points of general law. In view of the cases cited above it cannot be supposed that this court has ever considered that the doctrine of *Swift* v. *Tyson* applies in a bankruptcy case where the nature and extent of a lien are in question.

suit upon the wage assignment in the Municipal Court of Chicago.[1]

If the decision in this case is allowed to stand it means that henceforth all liens, of whatever kind or amount, will be subject to modification or abrogation in bankruptcy whenever the bankruptcy courts do not approve the soundness of the state law by which they are created. The change so wrought in the construction of the Bankruptcy Act will seriously affect the stability of property rights founded upon state law.

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[1] We have in mind, of course, that the Federal courts in the following cases involving the effect of the assignor's discharge in bankruptcy upon a wage assignment, have held that such assignment does not create a lien upon future wages until the wages are earned: *In re West* (D. C. Or., 1904), 128 Fed. 205; *In re Home Discount Co.* (D. C. Ala. 1906) 147 Fed. 538; *In re Ludeke* (D. C. N. Y. 1909), 171 Fed. 292; *In re Lineberry* (D. C. Ala. 1910), 183 Fed. 338; *In re Fellows* (D. C. Okla. 1930), 43 Fed. (2d) 122; *In re Vorhees* (D. C. Ohio, 1930), 41 Fed. (2d) 81; *In re Potts* (D. C. Ida. 1931), 54 Fed. (2d) 144; *Seaboard Small Loan Corp.* v. *Ottinger* (4th C. C. A. 1931), 50 Fed. (2d) 856.

Several of these cases criticize the Illinois doctrine. None of them, however, arose in a jurisdiction where the Illinois doctrine prevails, and consequently none of them pass upon the question of whether the federal courts are bound to follow the local rule in jurisdictions where it *is* the law that a wage assignment gives the assignee a vested property right in the assignor's unearned wages.

Of interest is "Wage Assignments in Illinois" by A. Fortas, in Yale Law Journal, Vol. XLII No. 4 (February, 1933), pages 527-548, where the conflicting cases are noted, and Professor Williston (Contracts, 1925, Sec. 414) and Re-Statement of Contracts (A. L. I. 1932), Sec. 154, are cited to the effect that the Illinois rule is technically sound. The decisions contra are characterized as variations introduced by the supposed "hardship of the case." And to the same effect is "Discharge in Bankruptcy and the Assignment of Future Wages," by F. M. Merrifield, in Univ. of Chicago Law Review, Vol. I, No. 3 (January, 1934), pages 488-490.

Conclusion.

Because this case involves questions of conflict of jurisdiction between the federal courts and the courts of a state, questions as to the extent of the statutory jurisdiction of bankruptcy courts and questions as to the paramount right of a state to control the nature and extent of property rights within its own borders, petitioners urge that its importance is such as to warrant the writ of certiorari above prayed.

Respectfully submitted,

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